

JOHN D. SULLIVAN
Assistant U.S. Attorney
U.S. Attorney's Office
James F. Battin U.S. Courthouse
2601 Second Ave. North, Suite 3200
Billings, MT 59101
Phone: (406) 657-6101
FAX: (406) 657-6989
Email: John.Sullivan2@usdoj.gov

ATTORNEY FOR PLAINTIFF
UNITED STATES OF AMERICA

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
BILLINGS DIVISION

UNITED STATES OF AMERICA, Plaintiff, vs. DEVAN GREGORY SANCHEZ, Defendant.	CR 16-67-BLG-SPW OFFER OF PROOF
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The United States, represented by Assistant U.S. Attorney John D. Sullivan, files the following offer of proof in anticipation of the change of plea hearing set in this case on December 14, 2016.

THE CHARGES

The defendant, Devan Gregory Sanchez, has been charged by indictment with one count of assault with intent to commit murder, in violation of 18 U.S.C.

§§ 1153(a) and 113(a)(1); one count of assault resulting in serious bodily injury, in violation of 18 U.S.C. §§ 1153(a) and 113(a)(6); one count of assault with a dangerous weapon, in violation of 18 U.S.C. §§ 1153(a) and 113(a)(3); and one count of use of a firearm during and in relation to a crime of violence, in violation of 18 U.S.C. § 924(c).

PLEA AGREEMENT

There is a plea agreement filed in this case. Sanchez will plead guilty to count II of the indictment, which charges assault resulting in serious bodily injury, in violation of 18 U.S.C. §§ 1153(a) and 113(a)(6). At the time of sentencing, the United States will move to dismiss counts I, III, and IV of the indictment if the Court accepts the plea agreement. The United States presented any and all formal plea offers to the defendant in writing. The plea agreement entered into by the parties and filed with the Court, represents, in the government's view, the most favorable offer extended to the defendant. *See Missouri v. Frye*, 132 S. Ct. 1399 (2012).

ELEMENTS OF THE CHARGE

In order for the defendant to be found guilty of assault resulting in serious bodily injury, in violation of 18 U.S.C. §§ 1153(a) and 113(a)(6), as charged in count II of the indictment, the United States must prove each of the following elements beyond a reasonable doubt:

First, the defendant is an Indian person;

Second, the crime occurred within the exterior boundaries of the Northern Cheyenne Indian Reservation;

Third, the defendant intentionally wounded C.R.; and

Fourth, as a result, C.R. suffered serious bodily injury.

PENALTY

Count II of the indictment carries a maximum penalty of 10 years of imprisonment, a \$250,000 fine, three years of supervised release, and a \$100 special assessment.

ANTICIPATED EVIDENCE

If this case were tried in United States District Court, the United States would prove the following:

Around midday on March 19, 2016, Devan Gregory Sanchez shot C.R. in the chest from close range with a .380 caliber pistol. A shootout ensued between Sanchez and C.R., and Sanchez suffered a flesh wound to his abdomen as a result.

Prior to the shooting, C.R. was in a vehicle driven by Bradley Baker, who had stopped at the Cheyenne Depot gas station in Lame Deer, Montana to fill up his vehicle with gas. While Baker was filling up his car, Sanchez pulled into the gas station and parked his truck at the pump adjacent to Baker's vehicle. Sanchez got out of the truck and, instead of pumping gas, promptly got into a verbal confrontation with Baker and demanded to know if there were any "Crows" or

“Bloods” in the vehicle. When Baker told Sanchez to look for himself, Sanchez shoved him to the ground. C.R. then got out of the vehicle and began arguing with Sanchez. At this time, Sanchez drew a Walther .380 caliber pistol and shot C.R. once in the chest from a distance of approximately ten feet. After being shot, C.R. drew a firearm of his own and returned fire, clipping Sanchez in the abdomen with one round.

Several witnesses observed the incident, and at least five of them stated that Sanchez drew first and shot C.R. before C.R. returned fire. A video recording obtained from the Cheyenne Depot corroborated those statements.

Both C.R. and Sanchez went to the IHS clinic in Lama Deer after the shooting. C.R. was then flown to St. Vincent’s Hospital in Billings for additional treatment. He suffered a through-and-through gunshot wound to his right chest, which collapsed his lung. C.R. was discharged from the hospital on March 22, 2016.

The location of the shooting is within the exterior boundaries of the Northern Cheyenne Indian Reservation and Sanchez is an enrolled member of that tribe.

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DATED this 6th day of December, 2016.

MICHAEL W. COTTER
United States Attorney

/s/ John D. Sullivan
JOHN D. SULLIVAN
Assistant U.S. Attorney